

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

Report Release Date: June 12, 2015

Review of the Death Kalib Smart

of Woods County, Oklahoma

General Information

The Office of Juvenile System Oversight (OJSO) received a request for a public report regarding the death of Kalib Smart. A Felonious Child Neglect charge was filed by the Woods County District Attorney on February 19, 2015, against Timothy Smart, Kalib's adoptive father and Twana Smart, Kalib's adoptive mother.

Authorization

The following is a summary of the actions taken by the Oklahoma Department of Human Services (OKDHS); the dates and outcome of investigations and actions taken by the DHS; the actions taken by the district attorney; the dates and summary of judicial proceedings; and the rulings of the court, as authorized by 10A O.S. Section 1-6-105.

Identifiers:

Child's Name:	Kalib Smart
Age at time of Incident:	Seventeen-years-old
Date of Death:	April 28, 2014
Alleged Perpetrator(s):	Timothy Smart Twana Smart

Sibling 1:	Fifteen-years-old
Foster Sibling:	Eight-years-old Five-years-old

The Oklahoma Commission on Children and Youth (OCCY) did not become aware of this case until after the death of Kalib.

Death Incident The Woods County Sheriff's Office documented on April 28, 2014, that at approximately 4:00 a.m. their Dispatch received a report of an unattended death.

The Sheriff's report documented that Twana Smart informed the officer that Kalib had died during the night. She reported that Kalib was a shaken baby and that she and her husband Timothy had adopted him when he was four-years-old, from another state. She reported that as a result of being shaken, Kalib was blind; partially deaf, did not speak, was a partial invalid, and was fed through a feeding tube. The mother reported to the officer that the child was not currently under a doctor's care but when he was ill he did go to the doctor. She reported that Kalib had not seen a doctor in approximately one year. The mother also stated that Kalib's health had been declining for the past eighteen months.

Twana Smart reported that she had changed Kalib's diaper at 10:00 p.m. on April 27, 2014. She further stated that when she checked on him at 2:00 a.m. on April 28, 2014, she found he had died.

The OKDHS did not enter a referral or initiate an investigation until January 20, 2015.

The OKDHS accepted the report as a Priority II Investigation with four days in which to initiate contact with the other children in the home. The OKDHS removed the three kinship foster children from the Smart Kinship Foster home on January 23, 2015, but left the disabled Sibling I in the home with Twana and Tim Smart as caretakers. The OKDHS closed their investigation as to the death of Kalib Smart on May 5, 2015. The findings in regard to the Investigation were documented as Substantiation of the allegation of Threat of Harm as to Sibling 1, and Neglect Failure to Obtain Medical Attention and Neglect Inadequate Care of Kalib Smart. At the time of his death, Kalib had not seen a doctor for over twenty months.

Prior Involvement of the PRFC with the Department of Human Services

The Smart family was opened as an OKDHS Kinship Foster Home on June 4, 2010. The Smart family had eleven prior reports of child abuse/neglect filed with OKDHS that were pertinent to Kalib's death.

The first report dated October 17, 2005, assigned to Woods County OKDHS alleged that nine-year-old Kalib had been left outside on the deck in his wheelchair unattended by any adult for forty-five minutes to one hour. The report also documented that the night before, the family had dinner on the deck but neither handicapped child was present. There was concern for supervision of the boys when the rest of the family was outdoors. The OKDHS accepted the report as a Priority III Assessment with thirty days in which to initiate contact with the alleged victims.

The OKDHS documented an interview with Twana Smart indicating she was irritated when the worker explained why she was there and said that she was busy. The OKDHS documented Twana Smart was uncooperative and that she stated she had been a foster parent and knew the system. Twana Smart stated that it was all right for a nine-year-old to be on the porch and stated she ran in and out checking on him and could see him through the windows. Tim Smart was documented to state he did not have time for "this" and asked if he needed an attorney. The worker documented being unable to speak to the younger sibling as the Smarts would not allow it. The OKDHS documented being unable to "determine the risk and safety" of the children due to the family being uncooperative.

The second report dated September 25, 2007, received by Woods County alleged Kalib and his handicapped sibling were outside in the front yard in their wheelchairs with no adult supervision every morning until the school bus arrived. Allegedly Kalib's sibling's wheelchair brakes did not work and there was a fear he would roll out into the street. Kalib also had red bumps spreading across his body. The OKDHS screened the report out and documented that children can wait for the school bus without parents present and that the rash was not life-threatening to the child.

The third report dated October 4, 2007, alleged that Kalib did not receive medical attention and had bleeding sores, some of which contained fecal matter. The OKDHS in Woods County accepted the report as a Priority II Investigation with seven days in which to initiate contact with the child victim. The OKDHS made an overall finding of Services Recommended. Kalib was taken to the Doctor by Twana Smart upon the OKDHS worker's instructions.

The fourth report dated April 23, 2008 alleged that Sibling 1 had wandered away from the home and was found a few blocks away. The child was autistic and supposed to be supervised by two older siblings who had gone into the house for five or ten minutes to get a drink of water. The mother was at home but was cleaning the kitchen.

The OKDHS in Woods County initially accepted the report as a Priority II but then screened the report out with the documentation that the child had only been missing for a few minutes.

The fifth report dated March 26, 2009 alleged that Kalib was outside in his wheel chair, and that it was chilly outside. The report stated there was no adult supervision. The OKDHS in Woods County screened the report out and documented that the worker and supervisor drove by the home immediately after the report came in to check on Kalib. It was documented by OKDHS that the wheelchairs were in the yard, but they did not see any children in the yard.

The sixth report dated June 10, 2009, according to OKDHS documentation alleged two children were sleeping in the yard on blankets and pillows. The report documented the house must be filthy as there were a lot of dogs and ducks in the house. The reporter stated there were no screens on the windows and the animals jumped onto the trampoline and into the house. The reporter also alleged that the parents were verbally abusive to the children. The reporter also stated there were two handicapped children in the home. The OKDHS in Woods County screened the report out and documented that issues of a dirty home are not enough for neglect and that the reporter could not explain what they felt was verbally abusive.

The seventh report dated September 23, 2009, alleged that Kalib was outside alone in his wheelchair. The report documented that local law enforcement had been called around 4 p.m. to do a welfare check on Kalib who was reported to be outside in the yard with no adult supervision. The officer reported that as he drove by he saw the older sibling looking out the front door checking on Kalib so he did not stop. Local law enforcement received another call at 7:00 p.m. which reported that Kalib was still

outside in his wheelchair alone and had not been taken back into the house. The officer reported that when he went back by the house that Kalib was still outside. The officer stated no one was checking on him and it was getting cold outside and Kalib was wearing short sleeves. The officer reported having spoken to the older sibling whose response was hostile. Twana Smart arrived at the home at that time and she was also hostile with the officer. She reportedly told the officer that Kalib was thirteen-years-old and was old enough to be outside by himself. The officer mentioned Kalib's level of functioning and how that related to his being outside unattended. Twana Smart repeated he was old enough to be outside and he liked it. Twana Smart informed the officer that Kalib "was her mentally retarded child." The officer reported attempting to explain why it was inappropriate for Kalib to be outside for that long by himself as it was getting cold and mosquitoes were landing on the child. The officer reported Twana Smart did not see an issue and continued to be hostile with the officer.

The OKDHS in Woods County accepted the report as a Priority II Assessment with ten days in which to initiate contact with the child victim. The OKDHS documented that the children were safe and that the family reported that they "do check on Kalib when he is outside and make sure he is ok." The parents reported that Kalib's then fourteen-year-old sibling was watching him. The parents stated that they do understand that Kalib was not able to protect himself if something were to happen. The OKDHS worker requested no further action in the matter.

The eighth report received on July 19, 2011 alleged that the children with handicaps both utilized feeding tubes for their nutrition and that their formula was left out on the

porch. Allegedly some of the formula was still outside on the porch a month later. There was concern that the children were being fed spoiled formula. The mother was reported to have said that this was how she had always done it and she had not had any problems. The report documented there were strict instructions on the cartons that the formula must be kept stored between 42 and 76 degrees. The report documented the outdoor temperatures had been running between 80 and 100 degrees.

The OKDHS in Woods County accepted the report as a Priority I Investigation. The OKDHS documentation verified the formula was on the porch, not in the house. The worker instructed the family to move the nutritional supplement inside the home to be stored out of the heat and not on the porch. The worker documented that the parents complied with that request and stated "if it kept DHS from being noseey." The OKDHS made an overall finding of Unsubstantiated with Services Recommended. The OJSO was unable to find any documentation in regard to what services were recommended to the family.

The ninth report received September 8, 2011 alleged that Kalib and Sibling 1 were being left with a sixteen-year-old sibling. The report also alleged that the formula for the handicapped children was kept on the front porch. The OKDHS Statewide Hotline screened the report out and documented it was a duplicate report.

The tenth report was received on December 18, 2012 and alleged that Sibling I had three blood blisters. Two were reported to be on the face and one in the palm of the

hand. The report also documented the child was filthy, smelled so bad that “it almost takes your breath away” and has scabs on his head.

The OKDHS in Woods County was assigned the report as a Priority I Investigation. The worker documented that the child’s hair was uncombed and there were bald spots from lying down so much, but they found no marks on the head but did find a red bump about an 1/8 inch in size on the face which appeared to be a “zit.” The report documented that the other children reported that the child showers every other day as the bathtub was clogged. The report documented the foster children were clean with no marks or injuries. The OKDHS documented the parents were sarcastic and claimed the child showered every day. The OKDHS made an overall finding of Ruled Out.

The eleventh report was received on September 4, 2014 and alleged that one of the foster children had been standing on a toy truck in order to swing from the clothes line, fell and broke the left elbow. The OKDHS Statewide Hotline screened the report out and documented a Preliminary Inquiry and noted the child received medical attention.

Judicial proceedings prior to the child’s death: There was no prior judicial proceeding in Oklahoma.